



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Employment Security Department

☐ Permanent Rule
☒ Emergency Rule

Effective date of rule:

Permanent Rules

- ☐ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- ☐ Immediately upon filing.
☒ Later (specify) April 5, 2009

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes ☒ No If Yes, explain:

Purpose: Engrossed Substitute House Bill 1906 was passed by the 2009 legislature and takes effect immediately. Sections 4 and 5 make changes to the training benefits program established under Chapter 50.22 RCW. Parts of section 4 apply to unemployment claims filed on or after April 5, 2009. This rule-making order modifies existing rules consistent with these changes pending the adoption of permanent rules.

Citation of existing rules affected by this order:

Repealed: WAC 192-270-020, WAC 192-270-025, WAC 192-270-030
Amended: WAC 192-270-005, WAC 192-270-035, WAC 192-270-050
Suspended:

Statutory authority for adoption: RCW 50.12.010, RCW 50.12.040, RCW 50.22.150, and Chapter 3, Laws of 2009, section 4.

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: ESHB 1906 makes significant changes to the training benefits program established by Chapter 50.22 RCW which apply to unemployment claims effective April 5, 2009 and later. These rules are necessary to implement these changes until permanent rules can be adopted.

Date adopted:

4/2/09

NAME (TYPE OR PRINT)

Paul Trause

SIGNATURE

TITLE

Deputy Commissioner

CODE REVISER USE ONLY

TIME

WSR

2:29
09-09-001

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>3</u>	Amended	_____	Repealed	<u>3</u>

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-005 Definitions. The definitions below apply to this chapter, ~~((and))~~ RCW 50.22.150, and chapter 3, laws of 2009, § 4:

(1) "Labor market" means the geographic area in which workers in your particular occupation or with your particular set of skills have customarily found work. For the purpose of determining whether you are a dislocated worker, "labor market" is based on your place of residence at the time you separated from employment. You will not be considered a dislocated worker if, following your separation from work, you move from a labor market area where your skills are in demand to an area where they are declining.

(2) ~~((("NAICS" means the North American industry classification system code.~~

~~(3))~~ For claims with an effective date prior to April 5, 2009, "plurality of wages" means the largest proportion of wages earned within a particular occupation or skill set. These wages must be earned in:

(a) Your base year, and

(b) At least two of the four twelve-month periods preceding your base year.

~~((4) "SIC" means the standard industrial classification code.~~

~~(5))~~ (3) "Skill set" means the work-related knowledge and abilities needed to produce a particular product or provide a particular service.

~~(6)~~ (4) "Training benefits" means the additional benefits paid under RCW 50.22.150 and chapter 3, laws of 2009, § 4 to eligible dislocated workers enrolled in and making satisfactory progress in a training program approved by the commissioner.

~~((7) "Wages" means remuneration earned in employment as defined in Title 50 RCW or the comparable laws of another state. This means that only wages in covered employment can be considered in determining whether you have sufficient tenure in an occupation or in work with a particular skill set.))~~

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-035 Time frames. Information about training benefits will be included in the claimant information booklet mailed to you at the time you file your application for

unemployment benefits (see WAC 192-120-010). For purposes of this section, the claimant information booklet is considered your notification of the eligibility requirements for the training benefits program.

(1) Submitting a training plan.

(a) For claims with an effective date prior to April 5, 2009, you have 60 calendar days to submit a training plan to the department for approval, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 65 calendar days from the date your application for benefits is filed, which represents 60 days plus five days for the booklet to reach you by mail.

(b) For claims with an effective date on or after April 5, 2009, you have 90 calendar days to submit a training plan to the department for approval, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 95 calendar days from the date your application for benefits is filed, which represents 90 days plus five days for the booklet to reach you by mail.

(2) Enrollment in training.

(a) For claims with an effective date prior to April 5, 2009, you must be enrolled in training within 90 calendar days, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 95 calendar days from the date your application for benefits is filed, which represents 90 days plus five days for the booklet to reach you by mail.

(b) For claims with an effective date on or after April 5, 2009, you must be enrolled in training with 120 calendar days, beginning on the date you are notified about the eligibility requirements for training benefits. For new claims, the deadline will be 125 calendar days from the date your application for benefits is filed, which represents 120 days plus five days for the booklet to reach you by mail.

(3) For claims with an effective date on or after April 5, 2009, these timeframes may be waived for good cause. For purposes of this section, "good cause" includes but is not limited to situations where:

(a) You were employer attached, including being on standby or partially unemployed, when you filed your claim for unemployment benefits but your attachment to your employer subsequently ended;

(b) You acted or failed to act on authoritative advice directly from department or partner staff upon which a reasonable person would normally rely;

(c) You were incapacitated due to illness or injury or other factors of similar gravity; or

(d) Other factors which would effectively prevent a reasonably prudent person, as defined in WAC 192-100-010, facing similar circumstances, from meeting the timelines established under this section.

(4) If you return to work, and subsequently become unemployed, the time frames described in subsections (1) and (2) begin with the date you file your additional claim for benefits.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-050 Criteria for approving training plans. (1)

The department will consider the following factors when reviewing your application for training benefits:

(a) Whether you have a current benefit year as required by RCW 50.22.010(9);

(b) Whether suitable employment is available in the labor market in which you currently reside (if you were originally determined to be a dislocated worker, but moved from the area where your skills were declining to an area where your skills are in demand, you are not eligible for training benefits);

(c) Your plan for completion of the training including, but not limited to, what financial resources you intend to use to fund the complete training plan when training benefits run out;

(d) Whether you have the qualifications and aptitudes to successfully complete the training;

(e) Whether the training relates to a high demand occupation(~~(, meaning)~~).

(i) For claims with an effective date prior to April 5, 2009, "high demand" means that the number of job openings in the labor market for the occupation or with that skill set exceeds the supply of qualified workers.

(ii) For claims with an effective date on or after April 5, 2009, "high demand" means an occupation with a substantial number of current or projected employment opportunities;

(f) Whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your employment prospects would be if training were not approved; and

(g) (~~Effective July 1, 2001,~~) Whether the educational institution meets the performance criteria established by the workforce training and education coordinating board.

(2) Academic training may be approved if it meets the criteria of subsection (1) and it meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

(3) The department may approve educational training that has been identified as necessary by the training facility as a prerequisite to a vocational training program that meets the criteria of subsection (1).

(4) In the case of individuals with physical or sensory disabilities, or in other unusual circumstances, a written decision of the commissioner may waive any of the requirements of this section on an individual basis.

REPEALERS

The following sections of the Washington Administrative Code are repealed:

WAC 192-270-020	Employment in the aerospace industry.
WAC 192-270-025	Employment in the forest products industry.
WAC 192-270-030	Employment in the fishing industry.